IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.240 OF 2003.

IN

SUMMARY SUIT NO.3889 OF 2002

Reuters India Pvt.Ltd .. Plaintiff

versus

Shri Girish M.Mehta .. Defendant

...

Mr.C.D'Souza i/b Dholakia Gupte for Plaintiff

CORAM : D.G. KARNIK, J

DATED : 11th January 2005.

P.C:-

1. Heard learned counsel for the plaintiff. None present for the defendant when called. The plaintiff has filed this suit for recovery of money due under the contract Exhibit A to the plaint and two order forms attached thereto. The plaintiff provided services of Reuters Screen and information to the

defendant and sent bills. The defendant did not make the payment and therefore the plaintiff has filed the suit for recovery of the dues.

2. The first defence of the defendant is that services were provided at Rajkot, Gujrat and the contract was also signed at Rajkot and therefore no part of cause of action has arisen at Mumbai and therefore this court has no jurisdiction to entertain and try the suit. Obtaining of the leave under clause 12 is immaterial because no part of the cause of action has arisen within the jurisdiction of this court. Prima facie, the defence raises a triable issues for the reasons mentioned below: The contract does not provide for any term that the payment would be made at Mumbai. The order forms also do not provide that payments would be made at Mumbai. The fact that some part payments were made at Mumbai is immaterial because, in respect of the past payments which have been made at Mumbai, there is no cause of action for the recovery. Dues which are not paid and for the recovery of which the suit is filed are not shown to be payable at Mumbai and therefore it is not shown that any part of cause of action has arisen at Mumbai.

3. In the circumstances, the defendant would be entitled to an unconditional leave to defend the suit. Hence, the defendant is granted unconditional leave to defend the suit. The defendant to file written statement within a period of 8 weeks. Suit shall stand transferred to the list of commercial causes.

4. Certified copy is expedited.

D.G.KARNIK, J